



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

JAN 24 2003

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Inspection Number 012203 3254 01

Ms. LaVonne Peters
Parts Manager
Spencer International
P.O. Box 218
3695 Highway 71 South
Spencer, Iowa 51301

Dear Ms. Peters:

STOP SALE, USE, OR REMOVAL ORDER

Enclosed is a **STOP SALE, USE, OR REMOVAL ORDER** which directs you to immediately halt all distribution and use of the unregistered pesticide MOUSE OUT. Paragraph 7 of the Order informs you why this action is being taken.

Please contact Mark Leshner at 913-551-7054 if you have any questions regarding this matter.

Sincerely,

Luetta A. Flournoy
Chief
Pesticides Branch

Enclosure

cc: Iowa Department of Agriculture and Land Stewardship

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

IN THE MATTER OF:

Spencer International
P.O. Box 218
3695 Highway 71 South
Spencer, Iowa 51031

Respondent

)
) **STOP SALE, USE, OR**
) **REMOVAL ORDER**
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I. AUTHORITIES AND BACKGROUND

1. Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136k(a), authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to issue an order prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is reason to believe that the pesticide or device is in violation of any provision of FIFRA, or the pesticide or device has been or is intended to be distributed or sold in violation of any provision of FIFRA.

This authority has been delegated from the Administrator of the EPA to the Regional Administrator, Region VII, and then to the Director, Water, Wetlands, and Pesticides Division, Region VII. Further delegation has been made to the Chief, Pesticides Branch.

2. On January 22, 2003, a representative of the Iowa Department of Agriculture and Land Stewardship inspected your facility and collected a sample of *MOUSE OUT*, a pesticide that was being held for distribution or sale.

3. The labels and/or brochures for *MOUSE OUT* claimed, stated or implied that the product was a pesticide by stating that the product repels rodents. This expressly stated use clearly fits within the definition of a "pesticide" as defined by Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

4. Section 2(u) of FIFRA, 7 U.S.C. § 136(u) defines the term "pesticide" as any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

5. 40 C.F.R. § 152.15(a)(1) states that a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that the substance can or should be used as a pesticide.

6. The pesticide, *MOUSE OUT* is not registered with EPA.
7. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) provides that it is unlawful for any person in any state to distribute or sell to any person any pesticide which is not registered under Section 3 of FIFRA.

II. ORDER

8. **Respondent is hereby ordered NOT to distribute, sell, use, or remove the pesticide *MOUSE OUT*.**
9. This Order shall pertain to all quantities and sizes of the products listed above which are within the ownership, control or custody of Respondent, wherever these pesticides are located. The products shall not be sold, offered for sale, held for sale, shipped, delivered for shipment, received and, having been so received, delivered, offered for delivery, moved, or removed from the premises, for any reason. This Order extends to the offering for sale, or sale, of pesticides from an Internet web site.
10. With respect to the unregistered pesticide referenced above, Respondent shall not commence any labeling, including, but not limited to, relabeling, or movement of the pesticide from any present location without prior written approval from EPA.
11. **Respondent is further ordered to notify this office in writing, within ten days, what steps you have taken with respect to this product.**
12. Violation of the terms or provisions of this Order may subject the violator to civil or criminal penalties as prescribed in Section 14 of FIFRA, 7 U.S.C. § 136l.
13. The issuance of this Order shall not act as a waiver by EPA of any enforcement or other authority available to EPA under FIFRA.
14. This Order shall be EFFECTIVE IMMEDIATELY upon receipt by Respondent.

January 24, 2003
Date

Luetta A. Flournoy
Luetta A. Flournoy
Chief
Pesticides Branch